



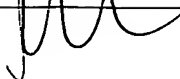
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,462	10/23/2001	Chester G. Nelson	P-8851.00	4002
27581	7590	10/05/2004	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604			BOCKELMAN, MARK	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/035,462	<b>Applicant(s)</b> NELSON ET AL. 	
	<b>Examiner</b> Mark W Bockelman	<b>Art Unit</b> 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-23-01</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of group III in the reply filed on 7-12-2004 is acknowledged. The traversal is on the ground(s) that there is no undue burden on the examiner. This is not found persuasive because examining 3 different inventions that may require ventures outside of the examiner's immediate art does constitute a burden..

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected groups, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7-12-2004.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-11, 13, 15, 17, 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Snell USPN 6,249,705.

Snell teaches a server arrangement comprising a server 102, a storage element (database 103) through which downloaded program updates pass through, and an interface 107 which may be wireless or modem (wires) for communicating with a plurality of network programmers 104<sub>N</sub>. The network programmers are used to communicate and program a plurality of IMDs 105<sub>N</sub>. Security measures established within the server/interface system are described in col. 4 lines 40+ and include the encryption of data and measures to protect patient data. Data integrity is performed so as to ensure the validity of data exchange, which thus intercepts data contaminants that may be included in the data. (i.e. viruses etc.) The transmission protocol may be TCP/IP as well as other types of internet protocol (column 3 lines 30-42).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snell USPN 6,249,705.

Applicant differs from Snell in particularly pointing out common features to server network connections that Snell only hints at and does not specifically state. Snell teaches wireless connections between the server and the IMD programmers but does

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not specifically mention optical fibers or radio transceivers, however such wireless interface transmissions are regarded as well known in the art. Additionally, Snell discusses the physical establishing a secure connection in the Table which the ordinary skilled artisan would understand as a login password or other similar security device that would deny unauthorized use. Finally, it is noted that to use a server administrator interface to service and to regulate transmission of information through the server was well known at the time of the invention.

Claims 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ji et al 5,623,600 in view of Snell USPN 6,249,705.

Applicant's apparent point of novelty is the provision of a security at the level of the server in an internet based communication system for serving programmable IMD's. Ji et al is cited as demonstrating Servers with data integrity assuring means that scan file for viruses (etc.) to intercept corrupt data were well known at the time of applicant's invention. To have provided the use of such a server for transmitting data to IMD programmers would have been obvious given that server based IMD programming systems were also known at the time of applicant's invention, which is demonstrated to be true by the citation of Snell 6,249,705.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W Bockelman whose telephone number is (703)-308-2112. The examiner can normally be reached on Monday - Thursday 10-8:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWB

October 1, 2004

  
MARK BOCKELMAN  
PRIMARY EXAMINER